



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/755,156	01/12/2004	Peter David Wynne Willson	PDG/20865/Mathys	9668
156	7590	10/27/2005	EXAMINER	
KIRSCHSTEIN, OTTINGER, ISRAEL & SCHIFFMILLER, P.C. 489 FIFTH AVENUE NEW YORK, NY 10017			ZEADE, BERTRAND	
			ART UNIT	PAPER NUMBER
			2875	

DATE MAILED: 10/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/755,156

Applicant(s)

WYNNE WILLSON, PETER DAVID

Examiner

Bertrand Zeade

Art Unit

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-83 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 66-83 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|-------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>10/04/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Double Patenting***

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

2. Claims 66-83 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-40 of U.S. Patent No.

6,676,284 B1. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are broader in scope than the 1-4, 6-8, 11-12, 17-19, 21, 25-28, 32 of the U.S. Patent No. 6,676,284 B1.

Wynne Willson 6,676,284 B1 discloses an apparatus and method for providing a linear effect having:

INSTANT APPLICATION # 10755156	REFERENCE :WYNNE WILLSON PATENT#6,676,284 B1	DISCUSSION ON DIFFERENCES AND ADDITIONAL REFERENCES
Claim 66	Claims 1, 17	The limitations of claim 66 are considered functionally equivalent to the limitations of claims 1 and 17 of U.S. patent # 6,676,284 B1 because claim 66 of the instant application is not

Art Unit: 2875

		patentably distinct from the U.S. patent 6,676,284 B1, and Claim 66 of the instant application is broader in scope than claims 1 and 17 of U.S. patent # 6,676,284 B1.
Claim 67	Claims 2, 32	The limitations of claims 2 and 32 are considered functionally equivalent to the limitations of the instant application's claim 67 such that the whole apparatus outputting light is perceived as one color
Claim 68	Claims 2, 32	The limitations of claims 2 and 32 are considered functionally equivalent to the limitations of the instant application's claim 68 such that the whole apparatus outputting light is perceived as different colors
Claim 69	Claims 8, 28	The claimed limitations are disclosed such as a power supply or dynamic source of energy well known to those skilled in the art.
Claim 70	Claim 3	The claimed limitations are disclosed
Claim 71	Claim 4	The claimed limitations are disclosed
Claim 72	Claim 25	The claimed limitations are disclosed
Claim 73	Claim 32	The claimed limitations are disclosed, because claim 73 of the instant application is broader in scope than claims 32 and 11 of U.S. patent 6,676,284 B1
Claim 74	Claim 21	The claimed limitations are disclosed
Claim 75	Claim 27	The claimed limitations are disclosed, because claim

		75 of the instant application is broader in scope than claims 27 and 7 of U.S. patent 6,676,284 B1
Claim 76	Claim 26	The claimed limitations are disclosed, because claim 76 of the instant application is broader in scope than claims 26 and 6 of U.S. patent 6,676,284 B1
Claim 77	Claims 1, 17	The limitations of claim 77 are considered functionally equivalent to the limitations of claims 1 and 17 of U.S. patent # 6,676,284 B1 because claim 77 of the instant application is not patentably distinct from the U.S. patent 6,676,284 B1, and Claim 77 of the instant application is broader in scope than claims 1 and 17 of U.S. patent # 6,676,284 B1.
Claim 78	Claims 2, 18	The limitations of claims 2 and 18 are considered functionally equivalent to the limitations of the instant application's claim 78 such that the whole apparatus outputting light is perceived as one color
Claim 79	Claims 2, 18	The limitations of claims 2 and 18 are considered functionally equivalent to the limitations of the instant application's claim 79 such that the whole apparatus outputting light is perceived as one color
Claim 80	Claims 8, 28	The claimed limitations are disclosed such as a power supply or dynamic source of energy well known to

		those skilled in the art.
Claim 81	Claim 19	The claimed limitations are disclosed
Claim 82	Claim 4	The claimed limitations are disclosed
Claim 83	Claims 25, 32	The claimed limitations are disclosed

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bertrand Zeade whose telephone number is 571-272-2387. The examiner can normally be reached on 9:30 AM-5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Bertrand Zeade
Examiner
Art Unit 2875
Sandra O'Shea
Supervisory Patent Examiner
Technology Center 2800